IN THE HIGH COURT OF JUDICATURE AT BOMAY
NAGPUR BENCH, NAGPUR
LETTERS PATENT APPEAL NO.53 OF 2006
IN
WRIT PETITION NO.5010 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders

CORAM : R.M.S. KHANDEPARKAR &
S.R. DONGAONKAR, JJ.
DATED : JUNE 20, 2006

1. Heard. The appellants seek to challenge the order dated 24-1-2006 passed by the learned single Judge in Writ Petition No.5010 of 2004. The appellants have canvassed only two points before the learned single Judge against the decision of the School Tribunal. Firstly, that there was no opportunity afforded to the appellants of being heard in the matter by the Tribunal and secondly, that the respondent No.1 was not qualified to occupy the post claimed by him.

2. The learned single Judge, on both the counts, has arrived at a clear finding based on the materials on

record that the appellants were duly notified about the hearing of the matter but on account of some internal problem regarding the management, they failed to put forth their proper representation before the School Tribunal and that would not amount to denial of opportunity of being heard to the appellants by the School Tribunal. We do not find any infirmity in the said finding and the finding in that regard is clearly borne out from the records.

3. As regards the second point, the learned single Judge has clearly held that there was no dispute that no inquiry was held before the termination of the services of the respondent No.1. The question whether the respondent No.1 was duly qualified to occupy the post or not could have been gone into only in case of inquiry having been held prior to the termination of his services. Without holding any inquiry and without affording the opportunity of being heard in the matter, the question of denying the relief of reinstatement to the respondent No.

1 cannot arise. In the circumstances, therefore, the impugned order does not disclose any illegality nor any improper exercise of jurisdiction and, therefore, it does not warrant interference in Letters Patent Appeal. Hence, the Appeal is rejected.

4. At this stage the learned Advocate for the appellants prays for suspension of the order passed today. However, the learned Advocate for the respondent No.1 states that the respondent will not press for execution of the order of the Tribunal for a period of six weeks. We accept the said statement and in view of that there is no need of passing any further order in that regard.

JUDGE JUDGE

sjs